

Memorandum

Date : March 4, 2003

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To : James D. Boyd, Presiding Member
Arthur H. Rosenfeld, Associate Member

From : **California Energy Commission - Bob Eller**
1516 Ninth Street
Sacramento, CA 95814-5512
Project Manager

Subject : **WALNUT ENERGY CENTER (02-AFC-4) STATUS REPORT NO. 1**

Pursuant to the Committee's Scheduling Order of January 29, 2003, the following is staff's status report on the proposed Walnut Energy Project. As requested by the Committee in its Order, staff's first report focuses on the schedule for the Preliminary Staff Assessment (PSA) and the issuance of the Preliminary Determination of Compliance (PDOC) by the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD).

CURRENT DATA REQUEST/DATA RESPONSES

Staff submitted 102 data requests on January 23, 2003, requesting additional information in the areas of air quality, biology, cultural resources, geology, land use, noise, public health, soil and water resources, traffic and transportation, visual impacts, and waste management.

The applicant provided responses to these data requests on February 18 and 25, 2003. However, responses were not provided to a small number of requests in the areas of air quality, cultural resources, visual resources, and soil and water resources. The applicant stated, in their February 25 data response, that additional data responses will be provided on March 10, 2003.

We are evaluating these responses to determine the need for either additional data requests or a data response workshop to clarify the information provided by the applicant.

No data requests have been filed by intervenors to this proceeding.

ISSUES

In our January 15, 2003 Issue Identification Report (IIR), staff identified potential major issues in the areas of air quality and land use.

AIR QUALITY

Staff's IIR identified a potentially critical issue regarding the validity of the Emission Reduction Credits (ERC) identified for this project. On February 13, 2003, the USEPA published the proposed approval of SJVAPCD Rules 2020 (Exemptions) and 2201 (New and Modified Stationary Source Review). USEPA has asked for comments on the proposed changes by March 17, 2003. Adoption of the proposed Regulation 2201 may

resolve staff's concerns regarding the validity of the ERCs proposed for use in this project. Staff has begun to analyze the proposed Regulation 2201 and will seek to resolve this issue prior to the release of our Preliminary Staff Assessment in May.

LAND USE

The City of Turlock amended their General Plan in 1992, by annexing and rezoning approximately 4,700 acres of agricultural land within their General Plan study area to industrial land. Approximately 3,200 acres of the 4,700 acres, including the project site, was classified as prime farmland by the California Department of Conservation.

The City of Turlock concluded that mitigation was not appropriate for this annexation and rezoning action. Its conclusion was explained in a statement of overriding consideration, that the 1992 General Plan would have a significant impact on prime agricultural land, even if mitigation were to be implemented. The City further stated that its ability to meet its fair share of the regional needs (balance of jobs, housing, and sufficient services) outweighed the environmental risk of farmland conversion. It is staff's position, that although the project constitutes industrial development on land that is zoned for industrial use, the project site is considered prime agricultural land, has been continually farmed, and is considered significant as determined by the California Resources Agency's guidelines.

The applicant is proposing to permanently convert approximately 18-acres of irrigated prime agricultural land to an industrial use, specifically, the proposed Turlock/Walnut Energy Center. The applicant has indicated that the remainder of the parcel (51 acres) would be returned to agricultural use.

PROJECT SCHEDULE

The SJVUAPCD has informed staff that they currently anticipate filing the PDOC for this project on April 17, 2003. This is consistent with the schedule provided by staff in its January 29, 2003, IIR.

The Committee's January 29, 2003, Scheduling Order anticipates a May 9 filing of the PSA by staff. Staff had proposed May 9 in its IIR, assuming that complete responses to all outstanding data requests, including any necessary second round requests, would be provided on or before April 1. On February 25, 2003, the applicant filed its responses to staff's January 23 data requests. In their response the applicant noted that additional responses would be filed on March 10 to data requests in the areas of air quality, cultural resources, visual resources, and soil and water resources.

Staff's proposed schedule anticipated that second round data requests, if necessary, would be filed on or before March 10. Based on the above, staff may have additional requests based on the materials submitted on March 10. Therefore, staff may not have responses to these additional requests, should they be required, in time to incorporate this information in the PSA.

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Staff will endeavor to meet the Committee's proposed schedule for release of the PSA. However, based on the above, staff believes that a late-May PSA filing may be needed if it is determined that it is preferable to incorporate the additional data provided by the applicant in response to our requests. We will discuss this issue with the applicant prior to filing the PSA.

cc: Walnut Energy Center Project POS list